



# Montana Electric Cooperatives' Association

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September 11, 2010

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Suite TW-A325  
Washington, DC 20554

**RE: Implementation of Section 224 of the Act, GN Docket No. 07-245**

Montana Electric Cooperatives' Association ("MECA") represents 24 retail electric distribution cooperatives in Montana. These co-ops serve more than 400,000 Montanans or nearly half the state's population. Montana's electric co-ops serve in all 56 Montana counties and their distribution systems collectively are nearly twice the size of the state's largest investor-owned utility. Many of these electric cooperatives serve in areas with extremely sparse populations. In fact, several of them have less than one member per mile of power line. In total, the co-ops serve a combined average of slightly less than 3 customers per mile. The average Montana electric co-op has about 3,000 members.

MECA files these brief reply comments in support of the comments filed by the National Rural Electric Cooperative Association ("NRECA") in response to the Federal Communication Commission's ("Commission" or "FCC") July 15, 2010 Order and Further

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Notice of Proposed Rulemaking (“NPRM”) regarding the Implementation of Section 224 of the Act (“Act”).

MECA is filing these comments because of the likely adverse impact the NPRM would have on our electric cooperatives if implemented. While 47 U.S.C. § 224(a)(1) of the Act exempts electric cooperatives from FCC pole attachment jurisdiction, any changes the FCC makes to its regulations can and have impacted electric cooperatives in our state. The Commission’s regulations tend to set “standards” that impact pole attachment negotiations between electric cooperatives and attachers.

Following are our comments:

- 1.) *We respect and appreciate the FCC’s objective of trying to expedite broadband deployment by accelerating the process of installing broadband attachments. However, this intent must not be undertaken without equitable consideration of the electric utility’s need to provide safe and reliable electric service.*

As NRECA argues, “The NPRM’s ‘Need for Speed’ make-ready proposals must be balanced with the need to ensure safe and reliable delivery of electric services.” NRECA’s comments describe the extent to which unauthorized attachments are problems faced by electric cooperatives nationwide. NRECA comments further describe troubling engineering practices used by attachers in their rush to deploy their lines and equipment. Such practices are not, as the NPRM has suggested, overblown or overstated. Our Montana electric co-ops do regularly encounter these types of situations and, with limited financial resources, must expend labor to rectify them. (Note the telephone attachment problems in the attached photos from

one small community served just one of our electric cooperatives in Montana. These are not unique examples. These kinds of attachment problems are actually quite common.) FCC rules that deter such practices would be welcomed as setting a new de facto standard for attachers when they attach to cooperative poles.

The FCC must remember that our first and foremost obligation is to our electric consumers. While we want broadband in all of our communities, we would hate to see the Commission adopt rules that could jeopardize the safety of our line workers or put the public in danger. Further, we hope the Commission decides not to impose greater administrative burdens, iron-clad timelines, and new requirements to address issues better left to private contracts on regulated pole owners, because attachers will come to expect us to do the same. As you can see from the profile of our Montana electric cooperatives listed at the start of these comments, we simply do not have the same resources as larger, investor-owned utilities with which the Commission is more familiar. And, some of the NPRM's proposals (such as a make-ready charge schedule and pole inventory database) are simply unnecessary and too burdensome.

*2.) Lowering pole attachment rates will not help spur broadband deployment in rural and sparsely populated areas.*

This is particularly true in Montana, where broadband service in most rural areas of the state is provided by rural telephone cooperatives, subsidiaries or related companies. For these entities, pole attachment rates are not the issue. In these areas, most broadband development is occurring via underground fiber optics. Moreover,

thanks to these local, consumer-owned telephone cooperatives, broadband service in many rural areas is already equal to if not better than the broadband service available in Montana's more urban areas. Broadband service to rural areas needs further development but, again, pole attachment rates are not the problem.

Moreover, our Montana-only surveys of pole attachment rates charged by Montana's electric cooperatives indicate that many of their fees are well below those under the FCC formulas. This is particularly true in rural areas. And in the more populated areas where pole attachment rates are closer to those under FCC formulas, electric cooperatives are highly sensitive to accusations of over-charging. Attachment fees charged by these electric cooperatives have the attention of state government policymakers.

We concur with NRECA that a reformed Universal Service Fund to accommodate broadband is the right mechanism to foster deployments to high-cost areas and make the economics work for providers to continue to serve those areas.

*3.) Our cooperative business model requires that pole attachers must pay their own way.*

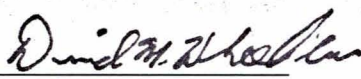
As noted in NRECA's comments, only 17 percent of electric cooperatives report using the FCC's rates formulas to determine pole attachment rental rates. We believe that this is because these formulas, which the NPRM proposed to modify to shift more costs to pole owners, do not align well with our business model. Tax exempt electric cooperatives must follow Internal Revenue Service cooperative principles to maintain their tax exemption. This means equitably allocating costs in our "at-cost" operations – that is, not operating for profit or below cost (not cross-

subsidizing.) If a cooperative cannot recover the costs associated with providing pole attachments, then electric consumers must make up the difference. This is particularly unfair when these consumers may not even want or be offered services by the provider making the pole attachments.

*4.) We have the same goal – universal broadband – but the NPRM's pole attachment proposals are the wrong "solutions."*

MECA, NRECA and the FCC obviously share the common goal of improving the opportunities denied to consumers who lack broadband services. While well intended, much of what the NPRM proposes to do in this proceeding would set a new bar for electric cooperative pole attachment practices that could negatively impact our ability to provide safe and reliable electric service to our consumers and appropriately recover our pole attachment related costs. We urge the FCC to consider these comments and those of NRECA to more fairly balance the goal of speedier broadband deployment with the need to ensure the safety and reliability of our electric infrastructure and quality service to our consumers.

Respectfully submitted,

By: 

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